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COMMITTEE ON THE RIGHTS OF THE CHILD

Ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Sri Lanka

1. The Committee considered the initial report of Sri Lanka (CRC/C/8/Add.13) at its 228 to 230 meetings (CRC/C/SR.228-230), held on 5 and 6 June 1995 and adopted* the following concluding observations:

A. Introduction

2. The Committee notes with satisfaction the submission of the initial report of Sri Lanka and the written answers to its list of issues. The Committee is encouraged by the frank and cooperative tone of the dialogue, in which the delegation of the State party indicated not only the progress achieved with regard to the implementation of the provisions of the Convention, but also the difficulties encountered during implementation. The Committee takes note of the statement made by the delegation that it was unfortunately not possible for a larger delegation to be present during the dialogue, as had initially been the intention of the Government.

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* At the 233rd meeting, held on 9 June 1995.

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B. Positive aspects

3. The Committee notes with appreciation the establishment in 1993 of a National Committee for the Monitoring of the Rights of the Child under the Ministry of Health, Highways and Social Service. It also welcomes the launching in 1991 of the Action Plan for Children in Sri Lanka to be implemented during the period 1992-1996. The Committee is encouraged to note the existence of a dialogue between the State party and non-governmental organizations, particularly the NGO Forum.

4. With respect to legislative reform, the Committee welcomes the State party's consideration of the possibility of amending laws relating to child abuse, child labour and juvenile justice, to ensure their compatibility with the provisions of the Convention.

5. The Committee also notes the willingness of the delegation of Sri Lanka to seek advice and technical assistance from the United Nations bodies and specialized agencies and from national and international non-governmental institutions in the fields of child abuse, child labour and juvenile justice.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee takes note of the difficult economic and social situation of Sri Lanka, particularly due to the adverse effects of structural adjustment measures and the ongoing civil armed conflict in the North and East regions of the country which drains national resources. Eight of the 25 provinces of the country are affected by the conflict which during the last 12 years has taken the lives of 30,000 people and currently has an impact on over half a million children.

D. Principal subjects of concern

7. The Committee regrets that the Government of Sri Lanka has not taken due consideration of the provisions of article 4 of the Convention. It regrets that only a small part of the national budget is dedicated to the protection of the child and notes the high proportion of military expenditures.

8. The Committee notes with concern that neither the Convention nor the Charter on Children's Rights is of binding nature within the national legal system. The Committee is concerned by the fact that the general principles of the Convention, including, in particular, article 2 (principle of non-discrimination), article 3 (principle of the best interests of the child) and article 12 (respect for the views of the child) are not reflected in the national legislation.

9. The lack of efficient and integrated mechanisms to monitor the situation of children is a matter of concern, particularly since the constitutional change gave increasing political power to the provinces. The Committee notes in this regard a lack of reliable quantitative and qualitative data, a shortage of means to implement programmes, and a lack of indicators and mechanisms to evaluate the progress and impact of policies adopted.

10. The Committee is concerned by the absence of coordination within the governmental departments and ministries, as well as between central and regional authorities. This affects negatively the implementation of global policies to promote and protect the rights of the child.

11. The Committee is worried about the existence of disparities concerning the three different laws (Sri Lankan, Kandyan and Muslim) regulating the minimum age for marriage. These legislations establish different minimum ages for marriage between boys and girls and authorize the marriages of girls as young as 12 years of age who have obtained parental consent from the parents. Such situations may raise the question of compatibility with the principles of non-discrimination and the best interests of the child (arts. 2 and 3).

12. The Committee remains concerned about the apparent persistence of discriminatory attitudes directed towards girls, children born out of wedlock, children from poorer income groups, rural children, child refugees or displaced children, working children, children affected by armed conflicts and children of overseas workers.

13. The Committee expresses its concern regarding the implementation of article 12 of the Convention. The views of the child are not sufficiently taken into account, especially within the family, the school and the juvenile justice system.

14. The Committee is concerned about the continuing difficulties encountered in ensuring birth registration, particularly of children born out of wedlock. The registration is necessary for all children so that they can fully enjoy their fundamental rights and freedoms.

15. With respect to child abuse, including sexual abuse, the Committee is seriously alarmed by the prevalence of this type of abuse. The Committee is worried about the fact that no specific rehabilitation measures exist for abused children and that they are treated like delinquents. Corporal punishment also persists in Sri Lankan society and is accepted in schools.

16. The Committee is concerned about the situation of children whose mothers are working abroad, especially in Gulf countries, leaving their children behind. Those children (between 200,000 and 300,000) often live in difficult circumstances and may be subjected to different types of abuse or exploitation.

17. The Committee notes that the Sri Lankan authorities have enacted new legislation on international adoption which ensures safeguards against the sale and trafficking of children. The Committee remains worried about the fact that the same measures have not been taken to regulate national adoptions.

18. The Committee expresses its deep concern about the high level of malnutrition among children. It is estimated that 23 per cent of infants are born with low birth weight.

19. The Committee is also deeply concerned about the surprisingly high rate of suicide among youngsters.

20. The Committee is concerned about the inadequate measures taken to improve the access of displaced and refugee children to education and health services.

21. The Committee is worried about the high rates of school drop out, the discrepancies in education facilities, especially in rural areas, and the insufficiency of pre-school establishments which are usually managed by non-governmental institutions and are not under State responsibility.

22. The Committee expresses its concern about implementation of the provisions and principles of the Convention in relation to the administration of juvenile justice. It is deeply concerned by the low age of criminal responsibility (8 years old) and the status of children between 16 and 18 years old who are considered by penal law as adults. Those children are examined by adult courts.

23. The Committee expresses its grave concern about the substantial number of children working as domestic servants and who are often subjected to sexual abuse. It is also deeply worried about the increasing number of children exploited sexually, especially young boys forced into prostitution, both locally and in international sex tourism.

24. The Committee is seriously preoccupied by the large number of children affected by the armed conflict and especially those who have been displaced and those who have become orphans as a result of the war. The Committee is also worried about the hazardous provision of health services in areas affected by the armed conflict. The Committee notes with regret that the initial report of Sri Lanka did not give comprehensive information on the effect of armed conflict on children, their involvement in the armed forces and the way the authorities handle child soldiers prisoners of war.

E. Suggestions and recommendations

25. The Committee recommends that the State party harmonize its national legislation with the provisions and principles of the Convention. Principles relating to the best interests of the child and the prohibition of discrimination in relation to children should be reflected in domestic law, and it should be possible to invoke them before the courts.

26. The Committee is aware that the State party is in the process of reviewing its legislation relating to child abuse, child labour and juvenile justice and, in that regard, draws the attention of the State party to the activities developed by the programme of advisory services and technical assistance of the United Nations Centre for Human Rights.

27. The Committee welcomes the adoption of a national Charter on Children's Rights but recommends that it be given the status of law and its provisions, where necessary, raised to the standards of the Convention.

28. The Committee strongly recommends that consideration should be given to raising and standardizing the age for contracting marriage in all communities, to raising the age for engaging in labour and for penal responsibility and to eliminate discrimination towards children born out of wedlock.

29. Measures should be taken to strengthen the Children Secretariat and the National Committee for the Monitoring of the Rights of the Child. The Committee recommends that an independent monitoring mechanism be implemented. In this regard, the establishment of an ombudsperson would be welcomed. Coordination mechanisms should also be strengthened between all authorities involved in human rights and children's rights, especially with the Ministry of Woman Affairs, at both national and local levels. The Committee suggests that measures be taken to improve the system for collecting statistics, accurate indicators and other data about the status of children.

30. The Committee encourages the Government of Sri Lanka to pay particular attention to the full implementation of article 4 of the Convention and to ensure a judicious distribution of the resources at central, regional and local levels. Budget allocations for the implementation of economic, social and cultural rights, particularly probation and care services, should be ensured to the maximum extent of available resources and in the light of the best interest of the child.

31. With respect to the implementation of articles 12, 13 and 15 of the Convention, the Committee recommends that consideration be given by the State party to facilitate children's participation and the respect of their views in decisions affecting them, especially in the family, at school and in courts.

32. The Committee recommends that the State party take measures to combat violence and abuse of children, including sexual abuse and corporal punishment. During the process of reviewing its law on child abuse, the State party should carefully take into account all the provisions guaranteed by article 19 of the Convention. It further suggests that professional groups, including teachers, law enforcement personnel, social workers and the military, be trained with respect to the provisions on the Convention. International technical assistance could be requested by the authorities in relation to this matter.

33. To avoid the abandonment of children by mothers working abroad, the Committee suggest that the State party engage in dialogue with receiving countries to ensure an international agreement that permits migrant workers to take their children abroad. Ratification of the International Convention on the Rights of all Migrant Workers and Members of Their Families should be considered.

34. To combat institutionalization and abandonment of children born out of wedlock, the Committee recommends that the State party establishes an adequate alternative family care system that responds to the national culture and customs. The Committee also encourages the authorities to give full support to mothers of children born out of wedlock wishing to keep their child.

35. With regard to national adoption, the Committee stresses the need to raise the standards to those existing for international adoption. The Committee welcomes the fact that Sri Lanka was one of the first States to ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993.

36. The Committee suggests that rehabilitation measures be taken for abused children and that the Government prohibits the publication by the media of the names of the victims.

37. To improve the understanding and the prevention of suicide, the Committee encourages the authorities to launch a study and a survey concerning this phenomenon.

38. In view of the general problem of displaced and refugee children, the Committee recommends that all appropriate measures be taken to ensure that those vulnerable groups have access to basic services, particularly in the fields of education, health and social rehabilitation.

39. The Committee recommends that the Ministry of Education should take under its responsibility the establishment and management of pre-school facilities.

40. With regard to the administration of juvenile justice, it is suggested that necessary measures be taken by the State party to implement fully the principles and provisions of the Convention. The Committee recommends that the law reform to be undertaken in this field adequately reflect the provisions of the Convention as well as other relevant international standards, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. It is suggested that due attention be paid to the best interest of the child, to his or her right to be heard, and that deprivation of liberty be considered as a measure of last resort and for the minimum period possible. In this regard, the Committee recommends that the criminal age should be raised and that persons aged between 16 and 18 be considered as children.

41. The Committee recommends that the law reform on child labour raises the minimum age of access to labour to 15 years old and the compulsory education age to the same limit. The Committee suggests that a monitoring and inspection mechanism be established to facilitate an effective implementation of the new law. The State party should give due attention to domestic child workers and encourage, through the promotion and implementation of the Convention, a change of mentality and attitudes. The Committee would like to suggest that the Government of Sri Lanka consider requesting technical assistance from ILO in the perspective of the legislative reform and suggests that the State party envisage ratifying ILO Convention No. 138.

42. The Committee expresses its deep concern about the development of sexual exploitation of children, especially of boys, through sex tourism. The Committee suggests that the authorities engage a prevention campaign on the HIV virus and strengthen its procedures to supervise tourist areas where the problem prevails.

43. The Committee recommends that in the light of article 44, paragraph 6, of the Convention, the report submitted by the Government be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee.

44. With regard to the traumatic impact on children of the civil armed conflict in Sri Lanka, the Committee recommends that, in the light of article 44, paragraph 4, of the Convention, additional information be submitted to the Committee within two years about the effects of the armed conflict on children, their participation in combat and the way authorities handle child soldiers prisoners of war.